Short Fatawas

Masa'il Pertaining to Prisoners

Shaykh Abu Bara'a as-Sayf

Ahl Sunnah wal Hadith

أهلُ السنَّة والحَديث

Ahl Sunnah wal Hadith

بِسْمِ ٱللَّهِ ٱلرَّحْمَٰنِ ٱلرَّحِيمِ

Fatwa:

Question:

السلام عليكم
What the ruling on giving information about another Muslim to the kuffar whilst being in prison?
Please reply with evidence.

Response:

The asl/original (ruling) is that it is not allowed for a Muslim to commit anything which would harm or transgress against another Muslim, even if he is under ikrah. The scholars have stated that if one is forced and under ikrah to kill another, it is not permissible for him to do that, because it is not allowed for him to spare and save himself at the expense of another Muslim soul, because the sanctity of himself and another Muslim in Islam are equal. So if the kuffar force a Muslim to kill another Muslim, he is not allowed to obey them with the excuse of being under ikrah, because the sanctity (of the soul) of both Muslims is equal in Islam.

So it is not permissible for him to save his soul at the expense of killing another Muslim soul, because their sanctity is equal, but if he is under ikrah, he may give false information.

Ikrah permits an act or statement of kufr, while his heart is firm with Iman, due to the statement of Allah: *{Whoever disbelieves in Allāh after his belief, except for one who is forced [to renounce his religion] while his heart is secure in faith. But those who [willingly] open their breasts to disbelief, upon them is wrath from Allāh, and for them is a great punishment.}* [Nahl:106- 107]. This is for an act or statement of kufr while under ikrah, but ikrah does not allow transgression of another soul, because his statement of giving information about a Muslim will lead that particular to be arrested or to his killing.

However, if the one who was under ikrah, and faced severe torture, thus gave

information about a Muslim to a kafir, this ikrah repels from him the ruling of kufr (i.e. takfeer), but does not repel the sin of giving information of a Muslim to a kafir, or the sin of his transgression against him. The Messenger of Allah (ﷺ) said, *"A Muslim is a brother of (another) Muslim, he neither wrongs him nor does hand him over to one who does him wrong."* (Sahih muslim)

The giving of information is a betrayal to the Muslim and because of this betrayal, the Muslim was imprisoned, as though he handed the Muslim over to the kuffar, but we don't make takfeer of him because he was under ikrah, and ikrah repels the ruling of takfeer, but he has fallen into transgression against another Muslim and a forbidden act by giving this information, and Allah says: *{but do not cooperate in sin and aggression.},* and his giving information of the Muslim to the kuffar is a sin and transgression.

Whoever does this while he is not under ikrah,(even if he is in prison), eating and drinking without being harmed or tortured, without meeting the conditions of ikrah, he is a kafir because the conditions of prisons vary, and whoever commits such an act has fallen into kufr from the perspective of aiding the kuffar because Allah says, *{but do not cooperate in sin and aggression.}*

And Allah says; *{O you who have believed, do not take the Jews and the Christians as allies. They are [in fact] allies of one another. And whoever is an ally to them among you - then indeed, he is [one] of them. Indeed, Allāh guides not the wrongdoing people.} And* Alliance carries the meaning of aid help, support, love, closeness etc.

Aiding the kuffar in their war against the Muslims is kufr by the texts of Quran and Sunnah and ijma. Allah says; *{Let not believers take disbelievers as allies [i.e., supporters or protectors] rather than believers. And whoever [of you] does that has nothing [i.e., no association] with Allāh, except when taking precaution against them in prudence. And Allāh warns you of Himself, and to Allāh is the [final] destination.}*

At-Tabari said regarding the tafseer of this Ayah, *{"..he has nothing [i.e., no association] with Allāh"}*, meaning then he is free/has nothing to do with Allah and Allah is free from him, due to his apostasy from the deen of Allah and His

entry into kufr".

والله أعلى وأعلم

[Translated transcript]

Shaykh Abu Bara'a as-Sayf

Fatwa:

Question:

One of our brothers is imprisoned, and he was arrested while he was in the act, and until now he hasn't been sentenced.

Is it permissible for his parents to hire a lawyer on his behalf, or must he wait for the sentence to be passed? According to what I understood from (a previous read regarding this ruling) in "Qawl as-Sāmi fi Hukm Tawkeel al-Majāmi"/wilayah Barakah, it is permissible to do so from within the prison, and he is awaiting a sentence no less than twenty years, if not more, and he is facing various forms and levels of torture from the kuffar, the helpers of the taghut.

So is it permissible for him to appoint a lawyer eventhough he thinks it won't make a difference, but he wants to know if it is permissible or not?

Answer:

It is permissible for a prisoner to request for his family to hire a lawyer on his behalf, if during his imprisonment he is subjected to severe torture which one cannot usually bear, or in the case where the most likely ruling of the charge/lawsuit would be the death penalty, life imprisonment or the least scenario; a long term prison sentence.

This is because this person is under valid ikrāh/compulsion, which permits him to commit the act of kufr while his heart is at rest with Iman/faith. So it is permissible for him to appoint a lawyer if he thinks by doing so, the most likely outcome would be the removal of torture, or the death penalty, or it would decrease his long-term prison sentence.

Due to the statement of Allah عز وجل, *{And cooperate in righteousness and piety.}* [5:2]

So the individual, the one helping who is appointed to hire a lawyer on his

behalf, is in reality assisting him in something which Allah has permitted for him in Shar'iah and he is in this condition, (i.e., in the condition of ikrah/compulsion.)

However, if it is as you mentioned, that most likely, appointing a lawyer would not change anything, then him appointing a lawyer or not is the same, then it is impermissible for him to do so in this situation.

والله أعلى وأعلم

Fatwa:

Question:

Mukhyam Al-hol offers optional deportation to the country of origin, for which registration took place two months ago. The one who wants to return must to go to the administration office [of the camps] and register her personal details and must request to be returned to her country.
What is the Islamic ruling of these sisters? Does the signing of these documents and conditions of kufr cause them to fall into kufr?

Also, regarding what they must utter upon returning to their countries, what is known as nationalistic slogans which contain kufr, is that kufr in the case of the one who registered voluntarily?

Now, most likely everyone else will be forcefully deported, who in reality do not wish to return to their countries of origin, but they will definitely have to sign similar documents and conditions of return, so what is their ruling?

Does this fatwa apply to all countries or is there a specific ruling for each country?

Answer:

وعليكم السلام ورحمة الله وبركاته

Firstly, it must be known that Al- hol and camps/mukhayyim in general is imprisonment under the authority of kuffār in dar al-kufr, where sisters are exposed to fitnah in there Deen and honour, and it is wajib/obligatory for the sisters to hasten and free themselves and escape from this imprisonment if she is capable of doing so, because of the saying of the Prophet ﷺ*("free the prisoner")* [Narrated in Sahih Al-Bukhari.]

And this [hadith] in its generality, includes the mulslimah to free herself from imprisonment.

Secondly, what is known from the evidences of Shar'iah and the principles of fiqh, is that if two evil/corrupt matters conflict, the most severe one is repelled [i.e. avoided] by bearing the least evil/corrupt matter, and a Muslim is obliged to leave the dar al-kufr which is more severe fitnah to his Deen, to the dar al-kufr which is of a lesser fitnah to his Deen, just like the companions made hijrah and escaped with their Deen from Makkah to Habasha/Abyssinia.

The matter of being a prisoner in these mukhayims/camps of the kuffar in dar al-kufr, it being a worse fitnah for the muslimah than being imprisoned in her country of origin or living there, is a matter which differs, depending on the country to which the sister chooses to go, when requesting voluntarily deportation..

If the fitnah to her Deen is more severe in the country she will be deported to than the mukhayim, then it is haram/forbidden for the sister to choose to be deported intentionally.

And if the fitnah to her Deen in the mukhayim/camps under the authority of the kuffar and their imprisonment is more severe than that of those countries, then the muslimah is obliged and must choose to be deported to a country which is of a less fitnah to her Deen than the mukhyam..

This requires detailed knowledge of the reality/conditions of the specific country to which voluntarily deportation would be completed, before deciding. The conditions, with regard to the sisters who wish to return from the camps, differs from one country to another..

Thirdly, if the sister knows with certainty, that if she chooses voluntary deportation to a specific country, that she will be made to utter [statements] of clear explicit kufr, or write clear explicit kufr, or commit an act of clear explicit kufr, then it's not allowed for her to voluntarily request to be deported to that country. And if she does so, and she knows with certainty, that she will fall into clear kufr [i.e. nullifier], yet she requests that, then she is a disbeliever/kafirah.

This is because the principle of fiqh states; *(The one who is determined to*

commit kufr in the future is kafir in present.)

And this all depends on the country to which optional deportation takes place, so one is obliged to pay attention to this matter.

Fourthly, the mere signing of a scribbled signature, or by writing a name, or providing a fingerprint on a document which contains conditions of kufr, or conditions that are haraam/forbidden, is not clear explicit kufr. Rather, it is an act which bears other possible meanings/signs, and it's ruling depends on the intention of the one who signs or provides the fingerprint for that [particular] document, and what his purpose was for providing the signature or fingerprint..

And I have stated in the past :

A clear agreement with a clear statement- such as saying "I agree", or writing clearly - "I agree" , on that which is kufr, falls under kufr in Allah and apostasy from the religion of Islam.
As the principle of Fiqh states: *('Documenting/writing is the same as speech').*

As for displaying that which has other possible indications/meanings for the kuffar, like if one was to put a scribbled signature without clear writing, or to provide a fingerprint on a document which contains conditions of kufr, then this is of two categories, depending on the one who provided the signature or the fingerprint:

1- That he does so with the intention of agreement to these conditions, and to abide by them, then he is a disbeliever.

2- That he does so without the intention of agreement or approval of these conditions, and he does not intend to abide by them, but rather he is doing this to deceive and trick them, then this falls under two (further) categories:

a) That the kuffar are capable and have the authority to make him abide by what he signed or provided his fingerprint for, with regards to the document which contained the kufri/blasphemous conditions, and because of his signature or fingerprint, they would force him to commit the actions of kufr

which they stipulated. In this case, it is not permissible to sign such conditions. If he knows that due to his signature or providing a fingerprint on a document which contain such blasphemous/kufri conditions, they would cause him to commit to them with actions of kufr and he is unable to flee from them, yet he provides the fingerprint or signature, then he is a kafir.

b) That the kuffar are not able to force him to commit to and abide by that which is kufr or forbidden/haram, for that which he provided his signature or fingerprint for, then in this case, it is permissible for him to do so with the intention that he does not agree with anything which contradicts the Shari'ah. This case is exactly like that of agreeing to the terms of the privacy policies for Windows, Facebook, Telegram, WhatsApp, Twitter and other such applications.

Fifthly, regarding slogans of a country for which they are enquiring about and the rulings of those who utter them, this is also dependant on what these slogans mean, and what they indicate, and if they contain anything of clear explicit kufr or any forbidden matter, or do these statements bear possible indications of kufr, which are not clear and explicit indications..

Thus, it is necessary to know exactly what these slogans are and what they mean, in order to understand whether it contains a clear forbidden matter, or clear explicit kufr or not, before passing a ruling on the particular individual who said such slogans for a specific country.

There is no doubt that slogans of each country differ from one another, and consequently the rulings also differ, depending on what these slogans indicate and mean.

والله أعلى وأعلم

Shaykh Abu Bara'a as-Sayf (حفظه الله)

Fatwa:

Question:

In the camps their are awam/public muslimeen workers, who clean the camp and awam muslimeen who work as shop keepers in the Camps. There are some who make takfeer on all them and say they all are kufaar and you are allowed to steal from them. What is the hukm on the awam muslimeen who work in the camps?

Response:

If a nullifier of Islam hasn't been proven against them by Shar'i Proof, and they say we are Muslims, and they utter the Shahadatayn and pray, then they are Muslims. Their blood is forbidden (to spill) and their wealth forbidden (to steal).

We don't rule them with kufr based on mere doubts and suspicion.

والله أعلى وأعلم

Shaykh Abu Bara'a as-Sayf

Fatwa:

Question:

I have a mas'alah i would like to ask about if you can explain it In Sha Allah, so that I may clarify to the sister the error of her action.

There is a sister who gave a glass of water (with the intention of sadaqah), to a woman who works for the coalition (in the camps).

Is this action which the sister committed permissible or not?

Response:

This question must be addressed from many perspectives.
The question here is that the water which was given to the woman/military officer, was it given to her during her work in aiding kufr, meaning while she was involved in work which involved kufr, such as taking information of the sisters for the coalition and this information harms the Muslims? Meaning, did the sister give water to her during the officer was involved in work of kufr, although we know she is a kafir asli/original disbeliever, but just so we know when she gave water to her, was it done during the time she was aiding or supporting an act which is kufr or apostasy and war against Allah, His Messenger and against the Muslim sisters or not?

Then when we enquire, and the sister responds saying that the officer was taking information from the sisters in order to aid the sisters to bring their children back from outside, or from another camp etc. Now if she asked for water during this, and the sister gave her water, although (her military work in general is kufr), but this work in specific, in bringing the children of the sisters back to them, then this is not kufr, because the sisters themselves sought from her to aid them in bringing their children back from outside camps etc. So she gave her water during her work here.
So in such a situation when she gave her water, she didn't give her water while she was involved in work of kufr, eventhough all her work is kufr because she is

an apostate and works under the coalition, but the work she was specifically doing while she was given water (by the sister) was not of kufr itself.

For example, if she/officer was involved in work which is kufr in itself, like taking information about the sisters who are wanted so that they are imprisoned, and the sister gave her water during this, then in this case we say that this action (of giving water) is aiding her in kufr and we say this act is kufr as it aids and strengthens her in her work of kufr when taking and using information that harms the Muslims and is passed onto the coalition. So if she aids them in such a matter then her act is kufr as she has aided her in an action of kufr, which leads and supports their war against Allah, His Messenger and the Muslims, and is alliance for the kuffar against the muslimeen. If she gave her water during such work, then this is clear explicit kufr, from the perspective of aid and support it. Allah says: *{And do not cooperate in sin and transgression}* [al-Maidah: 2]. In this case we say that this sister has aided them in sin, transgression, kufr and enmity against Allah, His Messenger and the Muslims.

However if we ask her, and she says "I gave the water to her because I wanted to aid the sisters in bringing their children back to them from outside camps and the sisters themselves gave their information about their children and the places of their children, so that this woman from the coalition may bring the children back to their mothers." In such a scenario, when the sister gave water (to the officer), the action would not be kufr, as her action was done in aiding the sisters and the sisters themselves were the ones who wanted her to aid them in returning their children back from outside the camp. And this action at this moment would constitute aiding the sisters in bringing their children back to them, so giving water to the women in such a case is not be kufr.

However, if she gave them water while they were taking information in order to harm the Muslims, then this is an action of kufr due to her aiding them in such actions.

So the matter depends on the reality of the situation, if she gave water while they were involved in an act that doesn't harm the Muslims but rather a benefit and a help for the Muslims in aiding to bring their children back, then

this act is not kufr.

Generally speaking, the asl (principle) in giving food or water to a kafir whether a muhārib/one at war is that it is permissible, except if it strengthens them in haram (what is prohibited) or kufr, then in such a case it is not permissible to give to them. And Allah says: *{And give food—despite their desire for it—to the poor, the orphan, and the captive,}* [al-Insan: 8]. Allah has praised the one who feeds the captive, and the captive includes the kafir harbi captive/a disbeliever at war (against the Muslims), so we do not say that feeding them is prohibited.

So this captive may be killed, or ransomed for the benefit of the Muslims or enslaved etc., and Allah praised the ones who feed the captives. So the asl/original ruling in feeding them or giving them something to drink is that it's permissible, except if in giving them food and drink at that moment, strengthens them and aids them in sin and aggression/enmity, then it becomes prohibited.

So if the sister gave them water in such an instant, while they were aiding the Muslims in returning their children, eventhough the woman working for the coalition is a kafir - and the Prophet ﷺ said: *"Allah may support the religion with an evil, wicked man."* as has been reported in the Sahihayn - her action is permissible.

However in general, the sisters should avoid involvement in these doubtful actions and should disavow from such actions, and should only deal with such disbelievers within the hudud/limits so that al-wala wal-bara is maintained (alliance and disavowal), and so that love of the disbelievers doesn't enter their hearts.

[Translated transcript]

Shaykh Abu Bara'a as-Sayf

Fatwa:

Question:

السلام عليكم عليكم الله وبركاته

Regarding the brothers in prisons, at times the Muslim inmates get into problems which lead to fights, so one of them knocks on the door of the taghut supervisor/guard and tells him what happened and who transgressed etc. So the taghut guard punishes them, or punishes the transgressor by beating him or at times puts him in solitary confinement or deprives some of his rights etc. And the root of all this quarrelling are trivial worldly matters, the cause of which is that the brothers differ in age, upbringing, education, origin etc.

There are some brothers here who say that just knocking on the door by which the taghut guard comes and settles the dispute is like seeking tahakum from them and is like seeking aid from them over a Muslim which is muwalāt (...). While some brothers believe it is minor muwalat and not kufr as it pertains to worldly matters.

So is knocking on the door of the guard kufr?

Answer:

وعليكم السلام ورحمة الله وبركاته

Their informing the guard which involves the (kafir) gaining authority and control over a Muslim is originally impermissible, as it includes a harm to a Muslim brother by a kafir, and his exposure to their harm and authority. The brothers must try to solve the dispute among themselves and not allow the matter to reach the guards..

But it is not a form of tahakum/seeking judgement from the taghut, because the guard/warden isn't a taghut Qadhi who has overall authority whose decision is binding (on a state). Rather the matter is close to being a form of

isti'āna/seeking help from a kafir against a Muslim. And the difference is well known, between I'ānah/aiding a kafir against a Muslim to harm him, which is clear and explicit kufr, and between isti'āna/seeking help from a kafir against a Muslim, which has detail according to the scholars..

So whoever informs of these problems to the warden and seeks their assistance over a Muslim who is from either one of the arguing parties, then this is an action which has (more than one) possible intention, which fall into the following categories:

1- He informs them in order to repel a greater evil which may occur, e.g., one of the arguing Muslim parties may try to kill the other Muslim, or may cause damage to his organs with a sharp object etc., and he isn't able to stop it except by the intervention of the kuffar guard/supervisor who is able to stop it. Here, in this case, two evil matters conflict with each other, so the greater evil matter is repelled by enduring the lesser evil one, and the greater evil is the killing of a Muslim or damage to his organs.

So it is permissible in this situation to knock on the door of the guard/supervisor so that they come and stop the occurrence of the greater evil, for the necessity of preserving a Muslim soul.

And the principle of fiqh states: *("If two evil matters conflict, the greater/worst one is repelled by enduring the lesser one.")*

Also due to the statement of Allah: *{But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], there is no sin upon him. Indeed, Allāh is Forgiving and Merciful.}* [Baqarah:173]

2 - That the quarrelling/fighting doesn't reach the level in which a Muslim may be killed or cause damage to his organs, but rather it is a usual type of quarrelling which the prisoner inmates who are in the same room as the quarrelling parties are able to contain. Here, in this case, it is haram to knock on the door of the guard/supervisor and to call them by which the kafir shall overcome/overpower the Muslim. Whoever does such a thing in such a

situation as this, is disobedient and sinful to Allah..

For Allah Ta'āla said: *{And never will Allāh give the disbelievers over the believers a way [to overcome them].}* [Nisa:141]

3 - It is a normal fight which anyone inside the room can contain, but a person knocks on the door with the intention and purpose that he likes that a kafir has dominance/authority over that Muslim and so that the kafir harms the Muslim. This situation - and Allah knows best - is closer to muwalat mukaffir/alliance which is kufr. So he becomes a kafir if his intention was such.

Due to the statement of Allah: *{Let not believers take disbelievers as allies [i.e., supporters or protectors] rather than believers. And whoever [of you] does that has nothing [i.e., no association] with Allāh, except when taking precaution against them in prudence. And Allāh warns you of Himself, and to Allāh is the [final] destination.}* [Al-Imran:28]

Due to the statement of Allah Ta'āla: *{O you who have believed, do not take the Jews and the Christians as allies. They are [in fact] allies of one another. And whoever is an ally to them among you - then indeed, he is [one] of them. Indeed, Allāh guides not the wrongdoing people.}* [Māida:51]

والله أعلى وأعلم

Abu Bara'a as-Sayf فك الله اسره

Fatwa:

Question:

One of our brothers is imprisoned, and he was arrested while he was in the act and until now he hasn't been sentenced.

Is it permissible for his parents to hire a lawyer on his behalf, or must he wait for the sentence to be passed? According to what I understood from (a previous read regarding this ruling) in "Qawl as-Sāmi fi Hukm Tawkeel al-Majāmi"/wilayah Barakah, it is permissible to do so from within the prison, and he is awaiting a sentence no less than twenty years, if not more, and he is facing various forms and levels of torture from the kuffar, the heplers of the taghut.

So is it permissible for him to appoint a lawyer eventhough he thinks it won't make a difference, but he wants to know if it is permissible or not?

Answer:

"It is permissible for a prisoner to request for his family to hire a lawyer on his behalf, if during his imprisonment he is subjected to severe torture which one cannot usually bear, or in the case where the most likely ruling of the charge/lawsuit would be the death penalty, life imprisonment or the best scenario; a long term prison sentence.

This is because this person is under valid ikrāh/compulsion, which permits him to commit the act of kufr while his heart is at rest with Iman/faith. So it is permissible for him to appoint a lawyer if he thinks by doing so, the most likely outcome would be the removal of torture, or the death penalty, or it would decrease his long-term prison sentence.

Due to the statement of Allah عز وجل, {And cooperate in righteousness and piety.} [5:2]

So the individual, the one helping who is appointed to hire a lawyer on his behalf, is in reality assisting him in something which Allah has permitted for him in Shar'iah and he is in this condition, (i.e., in the condition of ikrah/compulsion.)

However, if it is as you mentioned, that most likely, appointing a lawyer would not change anything, then him appointing a lawyer or not is the same, then it is not permissible for him to do so in this situation."

والله أعلى وأعلم

Penned by Shaykh Abu Bara'a as-Sayf

والحمد لله رب العالمين